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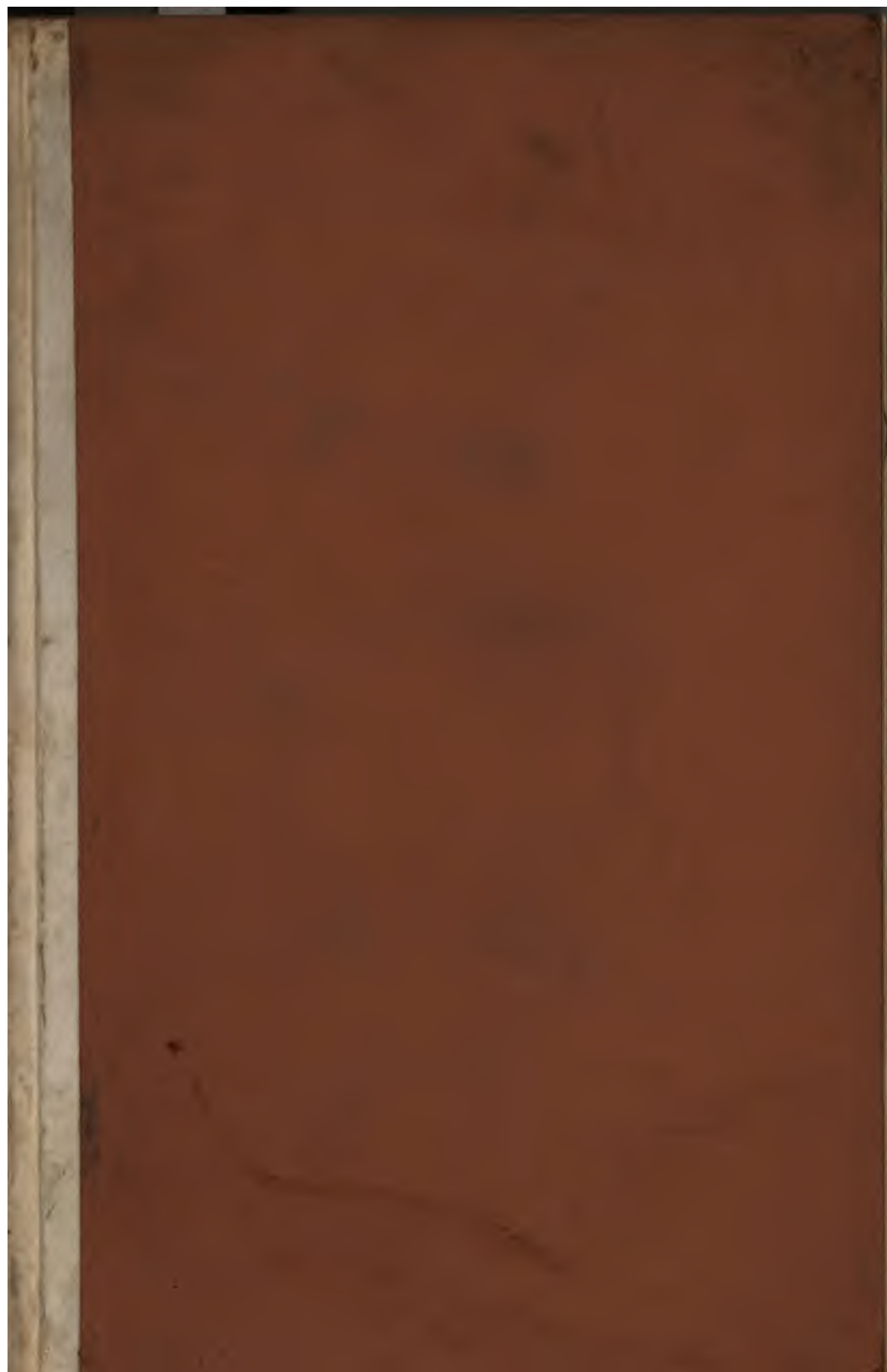
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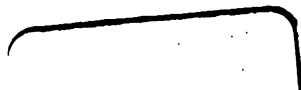
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A LETTER

ADDRESSED TO ~~THE~~

C^o D Cooper Esq^r

SECRETARY TO THE COMMISSIONERS
OF PUBLIC RECORDS,

ON THE SUBJECT OF

CERTAIN WORKS

PUBLISHED BY AUTHORITY OF THE

COMMISSIONERS.

BY WILLIAM LYNCH, ESQ. F.S.A.

AUTHOR OF

"A VIEW OF THE LEGAL INSTITUTIONS, HONORARY HEREDITARY OFFICES
AND FEUDAL BARONIES," &c.

ALSO OF

"THE LAW OF ELECTION IN THE ANCIENT CITIES
AND TOWNS," &c.

Received of the Secretary to the Commissioners of Public Records
the sum of £10 0 0

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TO THE
SECRETARY TO THE COMMISSIONERS
OF PUBLIC RECORDS.

SIR,

AFTER manifesting so much interest on the subject of Public Records, you will not, I feel assured, require any excuse for calling your attention to the following observations, particularly as they have already met the concurrence of several others, and at all events come from one whose habits of research for several years may give him some pretensions to the possession of a practical knowledge of ancient legal records.

As one of the public, of course I feel thankful for the liberality of the Legis-

lature, in allocating funds, however comparatively limited, for publishing our ancient muniments; still I must declare my belief, that the application of such funds, and the manner of executing the works to which they were applied, cannot be approved of in many instances.

There is before me now, a Volume entitled "*Calendarium Rotulorum Patentium in Turri Londinensi*," which presents a striking illustration of what I have just expressed. The total amount of expenditure for printing this volume it is not easy to estimate; but be that amount great or otherwise, one fact is undeniable, that in this case there was an injudicious application of the funds intended for publication of records. This "*Calendarium*" (wherefore so called?) instead of containing a correct entry of every record to be found on the Patent Rolls, exhibits only a selection of such Notes as were made long since, hastily and casually, by various Officers in the Tower, when engaged in research for other and different purposes.

Such notes, as might be expected, are in the most abbreviated form, and being evidently designed by the Officer to assist his memory while engaged in each particular search only and no longer, they offer imperfect, confused, and too often erroneous memoranda, almost invariably obscuring, and in numerous instances actually perverting, the real purport of the original record. Now, as to the proportion which these notes, or memoranda, bear numerically with the entries appearing on the Rolls themselves, I know that calculations have already been made by others ; but that circumstance may not supersede the utility of calculations formed lately by myself.

Some time since, Collections were made from the original Rolls of John and Henry III., of all entries relating to *one portion only* of the Empire ; and on comparing the collections so made with the printed "Calendarium," I feel justified in saying, that the average number of entries omitted in that volume, *amounts to one half* of the total number of entries on

the Rolls themselves. Turn, for instance, (without selection) to the Patent Roll of the 5th year of John, and according to the "Calendarium," its contents are *twenty-two* entries; on referring, however, to the Manuscript Collections just mentioned, I find that there are on the same Roll no less than *twelve other entries* of an important nature, and some of them of much public interest, though wholly unnoticed in the printed volume. Let us next refer to the Patent Roll of the 6th year of Henry III., and on that Roll, in addition to the *nine entries* contained in the "Calendarium," there will be found also as many *as eight other entries* not printed. These comparisons, if pursued, would furnish grounds for *averaging the omissions at one half*; but as the Manuscript Collections alluded to were only made with reference to one part of the Empire, so the total actual omissions must far exceed this average. Under, therefore, the name of a Calendar we have one-half, (if so much) of the contents of the Patent Rolls, printed

in such a defective, obscure, and erroneous manner, as to leave the Volume useless to the Statesman, the Historian, or to any other person, who for either public or individual advantage desires to investigate the Public Records.

I particularly wish to draw your attention to this Volume for the reasons following ; first, *because a considerable part of the limited fund granted by Parliament was expended on its execution, and for this sum, if otherwise applied, some useful publication, of real Record character, might have been given to the public ; and next, because this Volume only gives so many and such Records of the Patent Rolls as appeared, in the opinions of the Note-takers, Officers, Editors, or any or all of them, worthy of notice, or sufficient for the public to know, and that too, in many instances, only according to the construction, (however erroneous and different from the true one,) put hastily upon the record by those Note-takers or Editors.*

Here, Sir, are my two principal objections against the “*Calendarium Rotulorum*

Patentium;" and I must candidly state that I thus particularize them chiefly from a conviction, that the same objections can fairly be made to some other of the works more recently printed by the Record Commissioners.

To show, therefore, that *monies have been expended, which might have been applied to more useful purposes*, I must, in the first instance, direct your attention to "Rymer's Fœdera." Of course, as an important national work, I think some publication in the nature of a Fœdera indispensable; but, having admitted this, you will permit me to say that I am convinced it was never intended (even giving the widest range to the objects of the work,) that we should resort to Rymer to find materials for the history of British Law, whether statute or common: no, this would require in itself the most minute detail, and a large, extended, unbroken series of solemn instruments. Neither was it designed that the historian should resort to the "Fœdera" for connected evidences

as to the National, Baronial, or Legislative History of Ireland: no, these connected evidences must occupy too much space, and have been (*therefore*, as I *once* thought,) in a manner wholly excluded from even the new edition, as any person acquainted with the original records relating to that country will admit. After reading the numerous and voluminous Reports, with their very voluminous Appendixes, in which the Lords' Committees laboured to elucidate the history of English Dignities, could any one expect to find in a work of so general a nature as Rymer, sufficient data for the history of English Parliaments and Nobility?—no, such an expectation could never reasonably be formed. And surely the Writs of Military Summons to the Barons and Gentlemen of England, which are sufficient in themselves to fill volumes from the reign of King John to the end of the 14th century; no person, however anxious to investigate this one (*and perhaps now least important*) branch of English Feudal history, could expect to

see collected in Rymer. No ; these all are subjects of such magnitude and extent that they require to be treated of separately and distinctly, and, accordingly, some of the materials have already been the subject of separate publications. Thus, for instance, the principal and most numerous class of materials for the history of British Law, have been printed in the shape of a new edition of the Statutes ; their Lordships' Reports on the Peerage, already printed, show how many volumes the history of Nobility and Parliaments alone would occupy ; and in their Appendixes will be found printed such and so many Writs of Military summons as must be sufficient for the Feudal historian, and even perhaps for the most ardent Genealogical enquirer. Notwithstanding, however, that such series of documents, with every aim at completeness and regularity, had been already printed, and under high authority too, there will be found thickly scattered throughout the volumes of the " *Fœdera* " numerous and lengthy

documents bearing on all the above subjects.

Now, with what view *such documents, isolated, detached, and torn out of their regular series*, were so inserted, and thus most expensively reprinted in Rymer, I shall not stop to enquire ; but I do freely state my belief, that their appearance in the “*Fœdera*,” as in our principal national collection of authorities, must have the effect of making not only foreign but even domestic writers think, that on each such subject all existing information is printed in that work ; and under this impression they naturally become liable to draw all the erroneous inferences and absurd conclusions, which he who sees only an occasional link in a very long chain of evidence, must unavoidably be subject to.

Truth compels me to add, after mature thought, that many documents printed in the new edition of the “*Parliamentary Writs*,” come fully within the observations now made ; and in explanation permit me to state, that, for literary purposes, I col-

lected from the Public Rolls several important Military and Parliamentary documents relating to Ireland, none of which appear in this recent edition of "Parliamentary Writs." That such omissions arose from negligence in research, or ignorance of Parliamentary Records, I wish not to assume, as, indeed, the heavy cost of the work is in itself some guarantee that the Commissioners had secured towards its execution the services and information of the most experienced practical men, and, under such circumstances, no choice is left me, but I feel bound to conclude, that a consecutive and perfect series of such documents relating to Ireland, fell not within the scope of the work; and therefore it appears evident, that this new edition of "Parliamentary Writs," so far as it also contains numerous isolated and detached documents, comes perfectly under those observations as to unnecessary expenditure of money (for purposes not alone decidedly useless, but perhaps, to a great extent, mischievous,)

which have been already made with reference to the "Fœdera."

Now, on looking through the two works in question, a calculation might be made, by which it could be shown that the expense of publishing those useless, perhaps mischievous, and, in some instances, thrice printed documents, would have defrayed the cost of publishing two volumes of useful Records. In saying this, however, I mean, of course, two volumes edited by a person not only conversant in Records, and of proper previous experience, but also one who, without a tendency to bewilder, or to sketch plans incompatible with the shortness of human life, would bring his practical knowledge and experience to the most effectual accomplishment of the Commissioners' object; and several such persons, I do believe, might be found.*

* Persons, however, of the above description will not be met with very frequently amongst those who are paid large yearly sums as officers or keepers of Record Repositories. This circumstance is to be attributed to the fact that Record appointments, like so many other

With this impression on my mind, I have beheld with regret, when going through Official Departments, the valuable stores of information which the public

parts of public patronage, were too often yielded to political influence, or similar considerations, rather than to qualification or talent; and it is but fair to mention this, inasmuch as an acquaintance with the qualification or acquirements of the majority of persons now filling such situations would otherwise lead to a supposition that the best recommendation for obtaining a Record appointment was *perfect ignorance* of Records. At the same time it must be confessed, some of the officers themselves seem to sanction this erroneous supposition by the pains which they take to make known their ignorance.

I once went to an office to inspect some ancient documents, and the officer would not, or could not, understand what was meant by the word "Records." Hearing previously that the man was really good-natured, notwithstanding this foible, I entered into the best explanation I could, while he was lolling on sumptuous furniture, which the public, *besides a good income, had supplied him with, in consideration of his understanding and preserving Records*; and after some time he exclaimed, "Now, Sir, I perfectly understand what you meant: they are kept in the vaults underneath, where the porter will accompany you with a lanthorn, and then you can see *"THOSE DAMNED OLD TRASH."*

might have had for the money so misapplied; how many important, and deeply interesting documents, now locked up, might have been brought to light, and

In another department a literary enquiry led me to peruse an ancient Roll of the twelfth century, and the officers, while demanding fees to the amount of more than sixty pounds for allowing me to read that one record, freely *confessed their want of any acquaintance with either the character or language in which the Roll was written*. I should add with respect to this charge of sixty pounds, that in lieu thereof fifty shillings were afterwards accepted; and so I paid that sum for what forms about ten lines in one of the pages of my work on "Legal Institutions, Honorary Hereditary Offices, and Feudal Baronies."

Such instances of incapacity and unconcealed ignorance might here be multiplied, but the reader must rest content, at least for the present, with the one which follows. Not long since the situation of officer in a principal Record Repository becoming vacant, an individual was appointed whose previous pursuits in a country district were almost incompatible with the acquirement of record or documentary information: so far, however, was he from feeling any delicacy in this way, or thinking how shamefully, and perhaps mischievously, the public had been used by his appointment as an Officer of Records, that he proceeded to the department, and without expressing any wish to

rescued from oblivion; nay, how much public knowledge of the most beneficial kind, relative to points on which the

see the ancient Records which were preserved there, as a first question he asked, "Where are *the offices*?" and on being shown the clerks' offices by the housekeeper, he hastily returned to the hall, declaring these were not the offices he desired to see, but he wished to be shown *the kitchens, the pantry, the wash-house, and like offices useful and fit for a family!!!*

I once heard in an Archbishop's office a disappointed sextoness ask the Register to read her parchment appointment as sextoness in a country parish; and I remember hearing the Register accordingly read the parchment, which ran in the usual style and terms of such documents, but when he came to the words "To have and to hold, &c. with all the rights, members, and appurtenances,"—"There," said the sextoness, "there is the mistake. I have been down to see the parish, and there is no manner of 'happ'rt'nances' for me; 'happ'rt'nances,' you know, are an house and garden, and two acres of land at least, and I never should have been to his Grace, or paid you all such Register's dues if I did not expect to have the 'happ'rt'nances.'"

This sextoness, however, sinks completely before the Record officer in every respect, and I do sincerely hope the day is not far distant when a full enquiry will be made into all those abusive appointments and misapplication of "happ'rt'nances" and family *offices*.

purest-intentioned men entertain opposite opinions, might be ascertained by a due application of that money, otherwise misappropriated! For *part* of that sum, all the Parliamentary Writs and Returns in the Rolls' Chapel might be published in a proper and sufficiently satisfactory manner, down to the end of the 17th century, when (and not before) the number of Places returning Members, and the language of the Returns as to Electors, seem to have been, for the most part, fixed. These documents, when lately preparing a work on ancient Cities and Towns,* I examined with Mr. Palmer, the intelligent officer in the Rolls; and though, through his care and labour, they have been arranged and labelled, yet they exhibit proofs of having sustained such injuries of time, bad keeping, and damp, under his predecessors, as mya leave them hereafter useless to posterity. For the *remaining part* of that sum, the same class

* "The Law of Election in the Ancient Cities and Towns," &c.—Wilson, Royal Exchange, 1831.

of documents now preserved in the Tower might also be published in a similar shape; and thus having the originals, without the private opinions or excursive annotations of any individual, the public, for the first time, might authentically learn the names of those who took the most leading part in our Legislative history—who resisted the undue pressure and influence of power, and who, notwithstanding the attempts made frequently and daringly, secured for their Country so large a share of civil liberty. The names of such men were incidentally placed upon record, and it is the duty of an enlightened age not only to preserve, but also to give publicity to that record. Exclusively of these considerations, it should be recollected that the documents just mentioned are of essential importance in questions which, though local, are still of weight and intricacy, and such as must certainly increase in frequency as soon as the new statute of Reform has come fully into operation; and be it remembered that the Records now spoken of are the only

certain source of information as to one important subject, for our ideas respecting which we have so long been dependent on whatever Mr. Prynne (an electioneering writer at the time) vouchsafed to publish. My adverting, however, to these Parliamentary Writs and Returns has been but accidental, and I certainly, when speaking of them, cannot overlook others of great importance, which have tantamount claims on early attention. I must, for instance, be alive to the importance of those 50,000 original Inquisitions in the Rolls Chapel, which for more than one hundred and fifty years furnishing the history and descent of every respectable family and landed estate throughout the kingdom, form now a grand national collection of British Records. Neither am I forgetful of the claims of Ireland after what, as an individual, I myself read in the records of the Tower and elsewhere: I know how she has been excluded from recent Record publications; and where Irish Records have been introduced—(*for the purpose, as is said,*

of inducing an idea that such works comprehended Ireland as well as England, and thereby preventing the application of Record funds for the publication of due materials for her history)—I know well how the names of her inhabitants and places occurring in such Records have been obscured and rendered unintelligible through the ignorance of transcribers. And further, as a proof of the loss the public sustain by this non-editing of the Records relating to Ireland, allow me to add that I myself have seen and read sufficient to justify an assertion, that the Legislative and Baronial History of England can never be fully understood until the Records relating to Ireland on the Close, Patent, Charter, and other Rolls, at least from John to Richard II. are properly published; and that to my own knowledge there are Records relating to Ireland which tend to establish points now held to be doubtful or inexplicable, notwithstanding the deepest consideration of solemn Committees.

The second objection to the “Calen-

darium," namely, that the portion of the Patent Rolls printed contains only *such entries as some individuals happened to think worth noticing*, and that even this portion *is given solely according to the construction such individuals hastily, and often erroneously, gave the record*, is commonly thought to be in a great measure also applicable to subsequent works printed under the Record Commission.

The first instance which I shall notice is "The Statutes of the Realm"—a large, expensive, and authoritative work published by the Commissioners, in which the Editor, though his duty, as we should suppose, was merely to collect, collate, and carefully print Records, ventured to prefix opinions of his own on a subject of a most important nature. These opinions, if appearing in any ordinary work, must have passed only as the "dicta" of an individual; but printed in a public work, the incompetency or errors of the individual are concealed under the high authority of those who commissioned him. In

this way error has been received and propagated ; and I saw with regret that one of the latest writers on Public Records,* a writer, you must allow me to say, who has taken an extensive and comprehensive view of the general subject of National Records, has adopted (or at least has given room in his useful work for) the erroneous opinions and mis-statements of the publication to which I allude. I do not intend dwelling longer, however, on this, as the errors in question may so far affect vested rights, and may lead to such serious consequences, that even should the Legislature refuse funds to print certain Records now existing, and sufficient to rectify the erroneous opinions unnecessarily inserted in the above publication, individuals sufficiently numerous have already proffered their aid to effect so desirable a purpose.

* "An Account of the most important Public Records," by C. P. Cooper, Esq. vol. i. p. 202. See, however, "A View of the Legal Institutions, Honorary Hereditary Offices, and Feudal Baronies established in Ireland during the Reign of Henry the Second," p. 33.—Longman and Co. 1830.

I shall not waste time in expressing a regret, now unavailing, that the Commissioners, when appointing persons to edit the new edition of the "Foedera," did not prescribe such well-defined and positive rules as to leave no power of arbitrary or capricious selection to those who superintended its printing; but I cannot help remarking that there are in the Tower several Records unnoticed and unpublished, which, bearing on the public affairs of England, must have found a place in the "Foedera," if too much of a selective and discretionary authority had not been left to the Editor.

Such, however, I pass over, and proceed to a publication which offers the strongest proofs of that class now under consideration. The work I allude to is the new edition of the "Parliamentary Writs;" a work which, from its extent and extraordinary cost, is deserving of peculiar attention. I must premise that some gentlemen, not having means of official knowledge, who heretofore looked to the printed

Peerage Reports as an elaborate compilation of the learning and research of the most competent persons, (of every class and opinion,) that ample public funds could procure, have of late felt extremely chagrined to find it stated in print, and under official authority, as it were, that these Reports were "*wholly the Reports of*" one noble Lord, and that he, unfortunately, happened to be one whom it was *utterly impossible to induce to change any plan, however defective*, which he had once adopted! Now, great as must be the mortification experienced by those gentlemen on such an announcement, it did not exceed the astonishment and regret which I felt, when lately seeing it stated also in print, that the Parliamentary Records of England do not begin until the reign of Edward the First! that this fact is clearly expressed in the Peerage Report!! that this Peerage Report was handed as his instructions to the Editor of the Parliamentary Writs when appointed!!! and that he, as Editor, adopted the views and opinions of the Committee,

who prepared that Report, and recommended the publication of certain documents accordingly!!!! This declaration, it must be confessed, has chilled and disappointed several as well as me. I, for my own part, expected that something deserving of the character of a National Work would be formed, to contain every authentic document relating to British Parliaments from at least the year 1199, when the principal Legal Evidences in the Tower commence ; and further, that whatever diversity of opinion existed amongst Politicians (properly so called) as to the history of the Legislature, the Editors would not be permitted to select or reject, merely that documents should square with any individual theories or fancies, but that as collectors and printers of accurate copies of Legal Records, their duty would bind them to print all evidences undoubted and extant bearing on the subject. These were my expectations, and I must declare, that I cannot still believe that any Committee or Commissioners

ever intended, in this the 19th Century, to withhold from the public mind any portion of our limited stock of ancient Legislative Documents—to set limits to the extent of public information—or force doubtful opinions upon the Country ; yet it must be admitted, that from misapprehension, or otherwise, this has been the case in effect. Parliamentary Writs have been printed at an exceedingly large expenditure of money, and no Parliamentary documents before the reign of Edward I. have been given to the public ! What must literary men therefore think, but that no Parliaments were held, or at least that we have no records of Parliaments held, before that King's reign ? Yet Parliamentary records do exist before the reign of Edward I. and this is now asserted, and with confidence, by an individual who has made some research into Parliamentary history, and may have perused Parliamentary records, perhaps, not seen by the Editors of the Parliamentary Writs ; but at all events such certainly as are not pub-

lished in that work. In consequence of this oversight, or misapprehension, however, in the executive department of the Record Commission, or elsewhere, the public, for whose 17,000*l.* *all the Records relating to Parliamentary history from the reign of John to that of Richard II. might have been printed in a proper manner, namely, without omissions, selections, notes, or comments,* must rest content (notwithstanding so enormous an outlay) with certain Parliamentary records of two particular reigns, which, as well at public as individual cost, have already so frequently been brought to our knowledge.

Thus we have sad proofs of the consequences flowing from vesting in Editors of Record works an injudicious power of rejection and selection, something, in fact, approaching to authorship! But how much are these circumstances aggravated by the quantity of matter neither necessary nor authentic, which is inserted in the new edition of the "Parliamentary Writs?" Would it be believed, that while

scarcely more than *one third* of a volume is occupied with Records, the remaining *two thirds* are devoted to unauthentic matter? Or is it credible that the Commissioners ever intended such a recognition of "book-making," as that their readers now must purchase two pages of *scissor's work* and *Record millinery*, for every one page of original genuine matter printed under the Board's authority? No! I feel convinced it was not originally the Board's intention; and that it was never contemplated any individual should assume the right of authorship—should dictate the period at which public information may be allowed to commence—should fix all future epocha in our Parliamentary and Constitutional history—or, above all, should attempt to render the Commissioners' works unprofitable and unsaleable, by overloading them with hundreds of pages of matter unauthentic and unnecessary.

Unfortunately, however, in forming an opinion now as to the object or intentions

of the Commissioners, most persons will perhaps be governed by the work itself, as already printed under their authority; still some remedy might be applied, and public opinion rectified by publishing a second edition of the present volumes, containing nothing but original Records, printed by contract,* on smaller paper, and

* As the Parliamentary fund applicable to Record purposes is so limited, all must feel interested in having Record publications printed on an economical plan and at the most reasonable rate: this might be effected by throwing open to competition the printing department, a measure with which the rights of the King's printers, as some persons think, may interfere. If any such rights exist, some compensation would be just; but it has been said that the origin of Record Commissions is of very recent date, and that the printing of works under their authority cannot be legally affected by patents issued some centuries before such Record publications were contemplated. This and other arguments derive much force from the language of the patents to Royal typographers now enrolled, particularly those in the 31st of Queen Elizabeth and the 14th of James the First, to Christopher and Robert Barker, and to Thomas Newcome and Henry Hills in the 27th of Charles the Second. The reader, on inspection, will find them well deserving of perusal; and it would appear as if the

certainly without such universal blanks or wastes in its pages. This edition could be profitably sold at a price within the reach of those who have perused too many original Records, bearing on our Constitutional and Parliamentary history, to yield implicitly to the mere "ipse dixit" of any individual on the subject, and who daily engaged in practical research, and consequently desirous to purchase whatever aids may be obtained through means of the Record Commission, yet are not sufficiently affluent to buy those hundreds of pages of useless modern matter, which are embodied in the recent publication.

I hope, in making the above observations, their length has not unreasonably

monopoly had not been very popular amongst the printers of former periods, for amongst other extraordinary clauses, the King was obliged to empower his patentees by special words "CAPERE, APPREHENDERE et CON-
DUCERE" all the Journeymen operatives, so that they should work for them as long as the patentees wished. There is also on the Rolls a patent granting the EX-
CLUSIVE *right of making tobacco pipes!!* Well may it be asked, When does our Constitutional history begin?

been extended ; and, if you agree that the errors undeniable as to the “ Calendarium,” have increased in some later Record works to such an extent as, on behalf of the public, requires an alteration in the mode of publication, I do trust, when viewing the saving of funds effected by such change, you will take into consideration the Parliamentary Records in the Rolls’ Chapel, as also the earlier portion of a similar class in the Tower, the Records in the Tower relating to Ireland, the numerous Miscellaneous Records there preserved, so illustrative of British history, and, above all, that proudest collection of British muniments, the Inquisitions in the Rolls’ Chapel.

I have the honour to be,

Sir,

Your very assured Servant,

WILLIAM LYNCH.

Carlton Chambers, Regent Street,
8th June, 1832.

P.S. The above Notes have been abridged from some general collections already formed on the subject of Public Records, and these collections, I regret, a pressure of urgent business for some time past has prevented my preparing for publication; but as they contain much that fell directly within my own view, and may afford a knowledge of some useful facts for those whose more important pursuits leave them little time to acquire a practical acquaintance with the subject of Official Records, Official Charges, Records sealed up, incompetent Officers, Editors, expenses of their Clerks, &c. I intend immediately preparing such collections for the publisher.

THE END.

LONDON:

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